

Ira Milton Kinard,

Plaintiff,

v.

Matthew Scott Jowers and
Jeremiah Milliman,

Defendants.¹

C.A. No. 6:10-3246-TMC

ORDER

Rule 41(b) provides that a claim may be dismissed “[f]or failure of the plaintiff to prosecute or to comply with . . . any order of court” and that such a dismissal “operates as an adjudication upon the merits.” See Fed.R.Civ.P. 41(b). Here, Plaintiff has done both. He has failed to respond to the Defendant’s Motion for Summary Judgment and the Court’s subsequent Order advising him that this action would be dismissed for failure to prosecute if he failed to respond. Based on the foregoing, it appears the

¹The Court notes that Jowers was never served by Plaintiff.

Plaintiff no longer wishes to pursue this action.

The court concludes that this action should be dismissed pursuant to Fed.R.Civ.P. 41(b) with prejudice for failure to prosecute. Accordingly, **IT IS ORDERED** that this action is **DISMISSED** with prejudice for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Anderson, South Carolina
September 26, 2012

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.